

1912-003 Chancery Causes: Gdn. of Sinda Mize to by vs. M. K. Mize to
Lee Co

Fleenor, Johnson, Davidson, Miles, Yeary

CA-Estate Dispute
T-Property

To the Honorable H.A.W.Skeen, Judge of the Circuit Court of
Lee County Virginia:

Humbly complaining, your Complainant R.M.Fleenor Guardian of
Sinda Mise, Bessie Mise, and Clifford Mise, infants under the
age of 21 years of age, complaining sheweth to the court that his
said wards are the owners of a reversionary interest, in their Mother
real estate who recently died subject to their Fathers life estate
in the same consisting of a tract of land lying about three miles west
of Jonesville, and bounded by the lands of Joseph Johnson and others
containing about 70 acres more or less, and also a reversionary in
terest in ~~one~~² house and lots in the town of Pennington Gap Va.
fully described in deeds made by R.T.Mise to Dona Mise copies of which
are filed herewith and asked to be made part of this bill.

Said infants own no personal property, nor any other estate or
property of any kind.

Your complainant alleges that a sale of the aforesaid interest in
the aforesaid described tracts of land would promote the interests
of the said infants because they would have their money put to
interest now, and it would be making them something before their
Fathers death and, he joins in the prayer of this bill and is willing
that said land be sold as a whole and free of his curtesy rights
and the proceeds of sale divided according to the annuity table on
values. *if it is decided that he has any interest,* Your Complainant further alleges that the rights of no person
will be violated by a sale of said real estate and interests therein.

That Bessie Mise and Sinda Mise are over the age of
14 years of age; the said R.T.Mise and M.K.Mise would be heirs of
the infants in the event of their death, their Father and Brother.

A copy of order of appointment and bond as Guardian is here filed
marked exhibit "1".

To, the end therefore that justice may be done, and forasmuch
as your complainant is remediless in the premises save in a court of
equity, he prays that the infants, Bessie Mise, Sinda
Mise and Clifford Mise, and R.T.Mise and M.K.Mise adults be made parties
defendant to this suit; that a proper Guardian ad litem may be
appointed for said infants; that the said parties and the said Guardian
ad litem answer the same but not on oath that being waived; and that

the infants over the age of 14 years answer in their own proper
;person under oath;that the said interests and tracts of land be sold
and the proceeds of sale put to interest or invested for the ben
efit of the infants as the court may direct;that all proper orders
and decrees may be entered ;and for such other ,further and general
relief as the nature of the case may require ,or as may be proper
in the premises.And your Complainant will ever pray &c.

A. M. Fleenor, Guardian
By M. H. Ely, Jr. qm

Virginia, Lee County to wit:

This day personally appeared before me ,the undersigned ,a ju
Justice of the Peace for the County aforesaid ,the above named R.M.
Fleenor Guardian plaintiff in the foregoing bill,and made oath that
he believes the statements therein contained to be true.

Given under my hand this the 5'th day of April 1911.

H. L. Forslyn J.P.

Costs:

Clerk \$5.47
 Jail 1.50
 Shiff. 1.00
 atty. 15.00
 N.P. 1.50
 G.A.L. 5.00
 Est. 5.00

\$34.47

Bond 10.00
 atty fee. 25.00
 \$69.47

Edd. Clerk 1.06

R.M. Pluma Guad
 vs. { Billie bky

M.H. Nise & others

1910 1st Apr. Rules

Bill filed, Spa
 executed on R.T.
 & M.K. Nise &

D.N. as to Them.

" 2nd Apr. Rules

D.N. Confd. as to
 R.T. & M.K. Nise,
 Ans. of Infant & Defts.
 & G.A.L. filed &
 Cause set for hear-
 ing.

3 lots within P. 4th M.K. Nise
 \$102.6 -

Jan. 70 acres \$1300 - "

Jan. 10-1911

Change -

R.J. Nise & Co

Sept 4-1911- 934.23

+ "

979.50- Less

his life annuity -

at age 52 - viz

56 1.50 - = 418.00

Less 1/4 to

Mrs. Nise -

418.00 -

104.50 = 313.50

313.50 = 1247.83

M. G. ELY

COMMONWEALTH'S ATTORNEY

Jonestown, Virginia

1st Apr

In the Circuit Court for the County of Lee,
to-wit:

THE ANSWER OF Sinda Wise, Ed Bessie Wise,

our ^{14 yrs} infants ~~under the age of twenty one years, by~~ in their own right and
proper person ~~guardian ad litem, assigned to defend~~ in this suit, to a bill of complaint exhibited against
them and others in the Circuit Court for the County of
Lee, by R. M. Flenner ~~Guardian and others.~~

The respondent ~~s~~, reserving to themselves the benefit of all just exceptions to the said bill, for
answer thereto, answering ~~by said guardian ad litem~~, say that they are infants of
tender years, and by reason of such disability are incapable of understanding, or of
taking care of their rights and interests, They therefore commend the same
to the protection of the court, and prays that no decree may be pronounced which will tend
to their prejudice.

And having answered, the respondent pray to be hence dismissed with their
reasonable costs, in this behalf expended; and they will ever pray, &c.

Sinda Wise.
Bessie Wise ~~Guardian ad litem.~~

M. G. Ez.

p. d.

County
OF
Lee

ss.

This day, Sinda Wise Ed Bessie Wise, whose name ^{are} is signed to
the foregoing answer, personally appeared before me, H. L. Hartley, a n. p.
and made oath that the statements made therein, so far as they depend upon his own knowl-
edge, are true, and so far as they depend upon knowledge derived from others he believes them
to be true.

Given under my hand, this 7th day of April, 1911

H. L. Hartley. N. P.
My commission expires Apr 19. 1914

M. H. Wise & Co.

adv. }

ANSWER
OF
INFANT DEFENDANT. *our*

147th page.

R. M. Fleming

Filed 2nd Apr. Reels, 1911

*H. C. Ewing,
Clerk.*

In the Circuit Court for the County of Lee,
to-wit:

THE ANSWER OF Linda Wise, Bessie Wise &c
Cliffad Wise

infants under the age of twenty-one years, by J. O. Woodward
guardian *ad litem*, assigned to defend them in this suit, to a bill of complaint exhibited against
them and others in the Circuit Court for the County of
Lee, by B. M. Flemer ~~guardian~~ and others.

The respondent, reserving to ~~themselves~~ the benefit of all just exceptions to the said bill, for
answer thereto, answering by said guardian *ad litem*, say that they are infants of
tender years, and by reason of such disability are incapable of understanding, or of
taking care of their rights and interests, they therefore commend the same
to the protection of the court, and prays that no decree may be pronounced which will tend
to their prejudice.

And having answered, the respondent pray to be hence dismissed with their
reasonable costs, in this behalf expended; and they will ever pray, &c.

J. O. Woodward Guardian *ad litem*.

p. d.

County
OF
Lee } ss.

This day, J. O. Woodward, whose name is signed to
the foregoing answer, personally appeared before me, H. C. Joslyn J. P.
and made oath that the statements made therein, so far as they depend upon his own knowl-
edge, are true, and so far as they depend upon knowledge derived from others he believes them
to be true.

Given under my hand, this 6th day of April - 1911

H. C. Joslyn J. P.

M. H. Misenals,

adv. }

ANSWER
OF
INFANT DEFENDANT.

R. M. Klemm Mandy

Filed 2nd Apr. Rules, 1911.
S. C. J. Ewing,
Clerk

R. M. Fleenor, Guardian. Plaintiff.
vs.() IN CHANCERY.
M. K. Wise, et al. Defendants.

THIS CAUSE came on this day to be heard upon the papers formerly read in the cause, and report of Commissioner, M. G. Ely, showing the disbursements of funds in his hands to R. T. Wise, present guardian. And was argued by counsel.

On consideration of which said report is confirmed.

And nothing further remaining to be done the cause is stricken from the docket.

R. M. Flemer Quad
vs. E. Secre Finial
Sunda nise itals.

Entered in C. O. B.
Page 296.

Enter this

.. H. A. W. S. in

May - 6 - 1912

R. M. Fleenor, Guardian for etc. Plaintiff.

vs.

In Chancery.

M. K. Mise, et als.

Defendants.

\$\$\$

This cause came on in this day to be heard upon the papers formerly read in the cause, and the report of Commissioner, M. G. Ely, showing the payment of the purchase money due by the purchaser, M. K. Mise, on the seventy acre tract of land *and on the 3 lots in Brunswick 4th 00,* described in said bill, and deed executed by the Commissioner to the purchaser, and was argued by counsel:

On consideration of which said report and deed - filed herewith are approved and confirmed, and the said purchaser may withdraw said deed from the files of this cause for the purpose of recordation; and he will pay to the said M. G. Ely, commissioner, the sum of \$5.00 for the execution of *each* said deed, for which execution may issue before the same is withdrawn. And as to all other matters this cause is continued.

R. M. Flumer
vs. { { { Deu no. 3.
M. K. misc. fol.

Entered in Cl B
No 9. page 181 to

Enter this

It is as shown

Sept. 4 - 1911 -

R. M. Fleenor, guardian for, etc. Plaintiff.

vs.

M. K. Wise, et als.

Defendants.

In Chancery.

This cause came on this day to be heard upon the papers formerly read in the cause and the report of sale by Commissioner M. G. Ely, filed July, 8th, 1911, and was argued by counsel:

On consideration of which the court doth approve and confirm said report of sale, the same having been filed more than ten days and being unexcepted *to*.

It is further ordered and decreed that commissioner M. G. Ely will proceed to collect the purchase money as it becomes due and will disburse the same in his hands to the parties entitled thereto; and when said purchase money is paid in full he is hereby appointed as Special Commissioner for the purpose to execute and deliver to the purchaser a deed to the lands purchased by him in this cause, with covenants of special warranty, and report to the Court.

R. M. Klumma Quay
vs. Decree no. 2 -

M. K. Mize atols.

Entered in C. O. B.
No. 9 page 181

Enter this

J. A. A. B. B. B.

Sept. 4-1911-

R.M. Flemon Guardian of the Plff.

against E.E. de Chancery

M.H. Wise and others Defts.

This cause came on this day to be heard upon the bill of complainant, exhibits and depositions filed therein, the answer of the infant defendants over 14 yrs of age, in person, the answer of the Guardian at birth J.O. Woodward for the infant defendants, both answers duly sworn to, and general replication to said answers - and process duly executed on adult defendants, M.H. and R.T. Wise, and was argued by our counsel.

On consideration of which, ~~it is~~ the bill is taken for confessed as to the adult defendants, they failing to appear, and the court being of opinion that it will be to the ~~and the Court is further of opinion that the~~ ^{best} interest of the infants to sell their real estate, it is adjudged ordered and decreed that M.H. Ely who is appointed special commissioner for the purpose, with advertisement ^{to the highest bidder} sell the lands set out in the bill at the front door of the Court house of Lee Co. after advertising the same for 30 days by notices posted in the vicinity of said land and at the front door of the Court house, said sale will be on a credit of one and two years next. Costs of suit and commission on the sale which will be required to be paid cash in hand and for the refusal payments he will take note with good personal security bearing interest from date, said commission will executed bond before the clerk of the Court in the sum of \$2000 - with good surety conditioned according to law, and report to Court and the cause is continued.

R. M. Flinnor Guardian

25. } } same

M. K. Muscatols

Entered in

Q. B. No. 9 Page 140.

Enter this

Haw Siam,

May. 3. 1911-

The depositions of Joseph F. Johnson and others taken at the law office of M. G. Ely, in Jonesville, Virginia, May 1st, 1911, to be read as evidence in a certain cause pending in the Circuit Court of Lee County, Virginia, wherein R. M. Fleenor is plaintiff and M. K. Wise and others are defendants, pursuant to agreement. Present M. G. Ely attorney for plaintiff and J. O. Woodward, Guardian ad litem.

Joseph F. Johnson, a witness of lawful age, introduced for the plaintiff, being duly sworn deposes and says:

Q. State your age, residence and occupation, and whether or not you are acquainted with the lands of the infant defendants in this cause? If so, how long have you known them?

A. Age forty-four years? Residence, Jonesville, Virginia, and am a farmer. I have been acquainted with the lands of the infant defendants about seven years. I own lands adjoining it?

Q. State whether or not in your opinion it would be to the interest of the infant defendants for their lands to be sold and the money put to interest or re-invested, and if so, give your reasons for the same?

A. I think it would, for the land has been laying there, hardly anything--any of it being cultivated, and growing up in bushes and briars, and the fences going down, and it has not been in its present condition making them anything.

Q. State in your opinion whether or not the rights of any one would be violated by the sale of said land?

A. I do not think the rights of any one would be violated. At least, I do not know that any ones rights would be violated.

Q. Please state in your opinion what is the fee simple value of this land, and the annual rental value in its present condition?

A. It would not be worth very much in the present condition

it is in--it ought to be worth about \$1500.00. It might rent for \$40.00 or \$50.00.

And further this deponent sayeth not.

Signature waived.

P. S. Davidson, another witness of lawful age, introduced for the plaintiff, being duly sworn, deposes and says:

Q. State your age, residence and occupation?

A. Fifty-five, Jonesville, Virginia, Farmer.

Q. State whether or not you are acquainted with the lands owned by the infant defendants in this cause, and if so, how long have you known it?

A. I am acquainted with said lands and have known it for the last twenty or twenty-five years.

Q. State whether or not in your opinion it would be to the interest of the infant defendants for their lands to be sold and the money put to interest, and if so, give your reasons for so thinking?

A. I think it would be to their interest for the same reasons stated by Mr. Johnson, and do not think the interest of any one would be violated by the sale of it. I think its fee simple value is about \$1500.00, and in its present condition would rent for \$40.00 or \$50.00 per year. I also think it would be to the interest of the infants for their lots in the town of Pennington Gap to be sold, and the money put to interest, or re-invested.

And further this deponent sayeth not.

Signature waived.

S. P. Miles, another witness of lawful age, introduced for the plaintiff, being duly sworn, deposes and says:

Q. State your age, residence and occupation?

A. Fifty-two, Jonesville, Virginia, and Farmer.

Q. State whether or not you are acquainted with the lands owned by the infant defendants in this cause?

A. I am acquainted with the lands and have known them for several years.

Q. State whether or not in your opinion it would be to the interest of the infant defendants for said lands to be sold and the money put to interest or re-invested?

A. I do, for the same reasons given by Mr. Johnson in his deposition, and do not know of anybody's interest that would be violated by the sale of the land.

And further this deponent sayeth not.

Signature waived.

J. J. Yeary, a witness of lawful age, introduced for the plaintiff, being duly sworn, deposes and says:

Q. State your age, residence and occupation?

A. Seventy-- Pennington Gap, Virginia, and am a farmer and Justice of the Peace.

Q. State whether or not you are acquainted with the house and three lots in Pennington Gap belonging to the infant children of Doni Wise, deceased.

A. Yes, sir.

Q. How long have you known them?

A. I have known the lots a long time, and the house since built--four or five years.

Q. State whether or not in your opinion it would be to the interest of the infant defendants in this cause for said house and lots to be sold and the money put to interest and re-invested?

A. I do believe it will be to their interest. My reason

is it will be rented and the property abused and run down. I know of nobody's interest that will be violated by a sale of it. I think the property is worth something like \$1000.00.

And further this deponent sayeth not.

Signature waived.

All the foregoing witnesses claim one days attendance.

Virginia, Lee County, to-wit:

I, H. E. Gibson, a Notary Public for the County aforesaid and State of Virginia, do certify that the foregoing depositions of Jos. F. Johnson, P. S. Davidson, S. P. Miles, and J. J. Years, were taken and sworn to before me at the time and place, and for the purpose mentioned in the caption.

H. E. Gibson

N. P.

My commission expires January 17th, 1915.

R. M. Munier Guard
vs. { depositions
M. K. Wise et al

Received from
H. E. Gibson, the
notary before whom
taken in good
condition and
filed on this the
1st day of May 1911.

H. E. Gibson,
Clerk.

N. P. Cost \$150

To the Honorable H. A. W. Skeen,

Judge of the Circuit Court for Lee County, Virginia:

Your undersigned Commissioner, in the Chancery cause of R. M. Fleenor, Guardian for &c., against M. K. Mise and others, begs leave to report that pursuant to the decree entered in said cause at the May term of said Court, 1911, your Commissioner advertised and sold the lands described in said bill to the highest and best bidder on the 10th day of June, 1911, at which sale, M. K. Mise became the highest and best bidder of the R. T. Mise tract of land containing about seventy acres, situated three miles West of Jonesville, at the price of \$1300.00, and said M. K. Mise also became the purchaser of the house and ~~two~~ lots in the town of Pennington Gap at the price of \$1026.00. Said purchaser paid to your Commissioner the sum of \$125.00 cost and commissions, which includes an attorneys fee of \$25.00, and \$10.00 premium on guardian's bond-- \$60.00 of this cost was paid as on the Pennington Gap property, and \$65.00 as on the R. T. Mise farm. Said M. K. Mise executed his notes bearing interest from date due in one and two years from date of sale, with R. T. Mise, E. P. Catron and John Hammond as surety.

Your Commissioner also begs leave to report that R. ~~M.~~ Mise claims no interest in the said R. T. Mise farm, by reason of his courtesy in the real estate owned by his wife, Doni Mise, at the time of her death, but relinquishes all interest he may have in said farm, and wishes and directs that the whole fund arising from the sale of said land be paid to his said wife's children, or their guardian, but he retains his right of courtesy in the Pennington Gap property, consisting of a house and two lots, one lot that was sold in this sale being the property of M. K. Mise, which has heretofore been deeded to R. M. Fleenor, and deed having

-2-

been lost.

M. H. Ely

Commissioner.

R. M. Flier Guady
vs. Report of sales
M. R. Wise and others

Filed July 8th 1911
H. C. Ewing,
Clerk

To the Honorable H. A. W. Skeen, Judge of the Circuit Court of Lee County, Virginia:

Your undersigned Commissioner in the chancery cause of R. M. Fleenor guardian for, etc. vs. M. K. Mise, et als. pending in your honor's court, would respectfully represent and show unto your honor that the purchaser, M. K. Mise, of a tract of land described in the said bill as seventy acre tract lying west of ^{and 3 lots in the town of Pamington Gap} Jonesville, has paid to your commissioner the entire amount of the purchase money, and is entitled to a deed to the same, which deed is here filed marked "deed" with this report for your confirmation and approval. The purchase money is yet in your Commissioner's hands subject to the order of the court as to the proper disbursement of the same.

Respectfully submitted.

M. V. Ealy.
Special Commissioner.

R. M. FLEMING Graduate
no. 11 Report of Seed-
m. H. Mize et al.

(1)

3 miles west of Jonesville. Beginning on a cedar and walnut on the north side of the main road - N. $16\frac{1}{2}$ W. 95 poles to a chestnut, N. 23. W. 66 poles to a maple and sourwood - N. 62 E. 64 poles to a stake on the old line and with it S. 23. E. 119 poles to a cedar S. 16. W. 60 poles to 4 white oaks in a hollow (now gone) thence to the road and with the same, S. $77\frac{1}{2}$ W. 23 poles to the Beginning - with appertinances, sponed, 63. acres -

no 2 -

Beginning at a walnut on the north side of the main road thence with the road N. 77 E. 33 poles to a stake on the old Lundy line and with it S. 16 E. 28 poles to a corner of the Joel Leedy land and with a line thereof S. 87 W. 70 poles to a walnut corner to Charles Flanary's land thence with said Flanary's line northwardly to a cedar on the south side of the main road thence with the road eastwardly to the Beginning, containing 8 acres.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

*Sinda Mise, Bessie Mise,
Clifford Mise, M. K. Mise and R. J. Mise*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on
the *1st* Monday in *April*, 191*1*, to answer a bill in chancery exhibited against

*them in our said Court by R. M. Fleenor,
Guardian for etc.*

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *8th*
day of *March*, 191*1*, and 1 *35th* year of the Commonwealth.

A Copy. Teste:

H. C. T. Ewing, Clerk

_____, Clerk

R. M. Fleenor, Gdn.

SUBPOENA

VS

IN CHANCERY.

Sinda Wise, et al,

M. G. Ely,

p. q.

To

1st April

Rules

Circuit Court.

1911.

Executed on the 9th day
of March, 1911, in fact
by delivering a true
copy of the within
summons to R. F.
Wise & M. H. Wise
in due due

Thomas Cooney S.S.

for J. H. Tucker
S. L. C.

R. M. Fleenor Esq.,
V.S. } } Bill in ch'cy.
M. K. Wise et al.